SBCivil Writ Petition No.960/2005
(Banarasi Dass v. State & Ors.)

Date of Order :: 8th February, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Sudhir Sharma, for the petitioner.
Mrs. R.R.Kanwar, Addl.Govt.Advocate.
Mr. D.S.Rajvi, for the respondents.

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By this petition for writ challenge is given to the order dated 28.6.1999 passed by Additional Collector, Suratgarh District Sriganganagar, rejecting an application submitted by the petitioner under Section 136 of the Rajasthan Land Revenue Act, 1956 (hereinafter referred to as “the Act of 1956”). Challenge is also given by the petitioner to the judgment dated 11.10.2004 passed by learned Sub Divisional Officer, Suratgarh dismissing the suit preferred by the petitioner under Section 88 read with Section 209 of the Rajasthan Tenancy Act, 1955 (hereinafter referred to as “the Act of 1955”). In the same petition for writ the petitioner has also claimed for payment of compensation in accordance with law keeping in view market price of the land which is sought to be acquired by Government of Rajasthan for establishment of an agriculture marketing yard.

In brief, facts of the case are that the petitioner submitted an application under Section 136 of the Act of 1956 before the Additional Collector,

Suratgarh for making necessary correction in revenue records and to enter khatedari of the land measuring 4.11 bighas, 4 and 8.11 bighas situated in khasra No.309 and khasra No.326 respectively in village Rohi Suratgarh. The application submitted by the petitioner under Section 136 of the Act of 1956 was rejected by the Additional Collector by an order dated 28.6.1999 holding therein that the relief claimed by the petitioner is not merely a correction in revenue record but pertains to declaration of rights and as such the appropriate remedy is under Section 88 of the Act of 1955. The petitioner thereafter also preferred a suit under Section 88 read with Section 209 of the Act of 1955 claiming declaration of khatedari with regard to land referred above and also with regard to some other land. The suit preferred by the petitioner was also rejected by the Sub Divisional Officer, Suratgarh by judgment dated 11.10.2004. The Sub Divisional Officer, Suratgarh rejected the suit holding therein that the petitioner failed to prove his possession over the land, the land in question was acquired by Government of Rajasthan much back in the year 1972 and also on the count that no notice was given by the petitioner as required under Section 80 CPC to the Collector, Sriganganagar as well as to the Agricultural Marketing Committee and Municipal Board, Suratgarh. In petition for writ it is averred by the petitioner that no compensation was paid to him by State Government after acquiring the land in dispute.

A reply to the writ petition has been filed on behalf of the respondents stating therein that the petitioner utterly failed to prove his interest in the land in question. It is also urged that the land in question was acquired by Government of Rajasthan much back in the year 1972 and thereafter the petitioner never claimed any compensation from the respondents. This conduct of the petitioner also proves that he was having no interest in the land in question.

Counsel for the petitioner while arguing the case has not pressed into service the challenge to the order dated 28.6.1999 passed by Additional Collector, Suratgarh and the judgment dated 11.10.2004 passed by learned Sub Divisional Officer, Suratgarh District Sriganganagar. The stress is given by counsel for the petitioner for payment of compensation against the land acquired. The question whether the petitioner is entitled for any compensation being having interest in the land said to be acquired, is required to be decided by the Land Acquisition Officer and not by this Court under Article 226 of the Constitution of India.

In totality of facts and circumstances of the case I consider it appropriate to direct the Assistant Colonisation Commissioner-cum-Land Acquisition Officer, Suratgarh District Sriganganagar to consider

entitlement of the petitioner with regard to grant of compensation, if petitioner submits a representation within a period of two months from today before him and proves interest and title with regard to land in dispute. The Assistant Commissioner Colonisation-cum-Land Acquisition Officer is required to dispose of representation submitted by the petitioner within a period of three months from the date of receipt of representation, if any submitted by him.

With the observations above this writ petition is disposed of.

( GOVIND MATHUR ),J.

kkm/ps.